

Senate Bill No. 1032

Passed the Senate June 2, 2010

Secretary of the Senate

Passed the Assembly August 19, 2010

Chief Clerk of the Assembly

This bill was received by the Governor this _____ day
of _____, 2010, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

An act to amend Section 6126.5 of the Penal Code, relating to corrections.

LEGISLATIVE COUNSEL'S DIGEST

SB 1032, Wright. Corrections: audits and investigations.

Existing law establishes the Office of the Inspector General for the purpose of conducting audits and investigations of the Department of Corrections and Rehabilitation, as specified. Under existing law, the Inspector General may require any employee of the department to be interviewed on a confidential basis. Existing law provides that it is not the purpose of these communications to address disciplinary action or grievance procedures that may routinely occur and that if it appears that the facts of the case could lead to punitive action, the Inspector General shall be subject to specified provisions governing interrogations and investigations of public safety officers.

This bill would include among those provisions applicable to the Inspector General in interviewing employees of the department a provision that makes it unlawful for any public safety department to deny or refuse to any public safety officer the rights and protections guaranteed to him or her concerning interrogations and investigations, as specified.

The people of the State of California do enact as follows:

SECTION 1. Section 6126.5 of the Penal Code is amended to read:

6126.5. (a) Notwithstanding any other provision of law, the Inspector General during regular business hours or at any other time determined necessary by the Inspector General, shall have access to and authority to examine and reproduce any and all books, accounts, reports, vouchers, correspondence files, documents, and other records, and to examine the bank accounts, money, or other property of the Department of Corrections and Rehabilitation for any audit, investigation, inspection, or contemporaneous oversight. Any officer or employee of any agency or entity having these

records or property in his or her possession or under his or her control shall permit access to, and examination and reproduction thereof consistent with the provisions of this section, upon the request of the Inspector General or his or her authorized representative.

(b) For the purpose of conducting any audit, investigation, inspection, or contemporaneous oversight, the Inspector General or his or her authorized representative shall have access to the records and property of any public or private entity or person subject to review or regulation by the public agency or public entity being audited, investigated, or overseen to the same extent that employees or officers of that agency or public entity have access. No provision of law or any memorandum of understanding or any other agreement entered into between the employing entity and the employee or the employee's representative providing for the confidentiality or privilege of any records or property shall prevent disclosure pursuant to subdivision (a). Access, examination, and reproduction consistent with the provisions of this section shall not result in the waiver of any confidentiality or privilege regarding any records or property.

(c) Any officer or person who fails or refuses to permit access, examination, or reproduction, as required by this section, is guilty of a misdemeanor.

(d) The Inspector General may require any employee of the Department of Corrections and Rehabilitation to be interviewed on a confidential basis. Any employee requested to be interviewed shall comply and shall have time afforded by the appointing authority for the purpose of an interview with the Inspector General or his or her designee. The Inspector General shall have the discretion to redact the name or other identifying information of any person interviewed from any public report issued by the Inspector General, where required by law or where the failure to redact the information may hinder prosecution or an action in a criminal, civil, or administrative proceeding, or where the Inspector General determines that disclosure of the information is not in the interests of justice. It is not the purpose of these communications to address disciplinary action or grievance procedures that may routinely occur. If it appears that the facts of the case could lead to punitive action, the Inspector General shall be subject to Sections 3303, 3307, 3307.5, 3308, 3309, and subdivisions (a) to (d),

inclusive, of Section 3309.5 of the Government Code as if the Inspector General were the employer, except that the Inspector General shall not be subject to the provisions of any memorandum of understanding or other agreement entered into between the employing entity and the employee or the employee's representative that is in conflict with, or adds to the requirements of, Sections 3303, 3307, 3307.5, 3308, 3309, and subdivisions (a) to (d), inclusive, of Section 3309.5 of the Government Code.

Approved _____, 2010

Governor